Committee on Resources,

Subcommittee on Energy & Mineral Resources

energy - - Rep. Barbara Cubin, Chairman
U.S. House of Representatives, Washington, D.C. 20515-6208 - - (202) 225-9297

Witness Statement

Testimony
of Marc W. Smith
on behalf of the
Independent Petroleum Association of Mountain States
Public Lands Advocacy
before the
Committee on Resources
Subcommittee on Energy and Minerals
U.S. House of Representatives

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Introduction

Madam Chairman, members of the committee, I am Marc Smith, Executive Director of the Independent Petroleum Association of Mountain States (IPAMS). Today, I am testifying on behalf of the Independent Petroleum Association of Mountain States (IPAMS), and Public Lands Advocacy (PLA). IPAMS is a non-profit, non-partisan trade association representing over 800 independent oil and gas producers and related service and supply companies in the intermountain west of the United States. Independents, such as the companies IPAMS represent, drill 85 percent of the wells in the U.S., and produce 40 percent of the oil and two-thirds of the natural gas.

PLA is a non-profit organization whose members include major and independent petroleum companies and non-profit trade and professional organizations that have joined together to foster the interests of the oil and gas industry relating to responsible and environmentally sound exploration and development on federal lands.

At the outset of my testimony, I would like to thank this committee for focusing its attention on oil and gas permitting on federal lands. Companies exploring for and developing oil and natural gas rely on federal land managers to process their permit requests in a timely manner. Without the necessary environmental studies, permits, and authorizations, access to drill on federal lands is prohibited. Land managers have significant control over the amount and rate of energy development in the United States and they exercise this control through the permitting process.

Throughout the gas-rich basins of the Rocky Mountain Region, backlogs for permits to drill and rights-of-way are growing at an alarming rate. Many resource management plans are outdated and revisions or new planning documents are being required before any leasing and development can occur. Staffing is short in

many offices and the problem seems to get worse with time. The use of sophisticated mapping tools and other technologies could ameliorate some of these problems, but as with many other issues, addressing agency priorities and goals is a necessary first step.

Background

Despite our best conservation efforts, electricity demand in the United States will continue to increase as a function of our growing population and the role of computers in the new economy. The role of natural gas in meeting this new demand cannot be understated. Ninety-five percent of all the new power plants now scheduled to be built will operate on natural gas. Electricity produced from natural gas fired generation will increase from 15 percent to 40 percent by the year 2020. In 1999, the National Petroleum Council forecasted natural gas consumption increasing from 22 trillion cubic feet (TCF) this year to 35 trillion cubic feet (TCF) in 2020.

In the United States, the economic expansion over the past fifteen years has been fueled by low energy prices. These low prices have been good for everyone, except the 500,000 American oil and gas company workers who lost their jobs. Since 1981, employment in the exploration and production sector alone has decreased from 700,000 to 300,000, a decrease of 57%. Since the oil price collapse of 1986, the domestic oil and gas business has been in a severe depression. In most areas, wells could not be drilled economically due to the low oil and gas prices. Many companies went broke drilling wells with the hope that higher prices would re-appear in the near term. In short, the oil and gas industry is a small shadow of its former self.

Since there was sufficient energy supply during the past fifteen years, no attention was paid to the problems facing the oil and gas industry. Rules and regulations that further restricted the industry were applied with vigor. In 1981, 89,000 wells were drilled in the U.S. This declined to 19,000 wells in 1999. It is no wonder that our oil production decreased from 8.6 million to 5.8 million barrels per day and our gas production decreased from 19.2 to 18.7 trillion cubic feet per year over this time frame. With these declines in production, and with our expanding economy, it should be no surprise that we consumed our surplus energy capacity, and prices have dramatically increased as a result. This is basic Economics 101, supply and demand.

The oil and gas industry can meet the nation’s growing demand for natural gas, but the price of natural gas will be dependent upon a number of factors, most notably, having adequate access to the resource in a timely manner.

Processing Permits

A recent influx of permit applications spurred by an increase in commodity prices for natural gas and oil has acted to compound existing permitting problems on public lands.

According to a recent survey done by Public Lands Advocacy (PLA) in Wyoming, agencies that are mandated to complete Application for Permit to Drill (APD) approvals within 30 days often take as long as 60 to 210 days to process permit approvals. Applications for rights-of-way (ROW) are similarly delayed causing bottlenecks in supply where gathering lines and pipelines cannot be installed.

In some cases, APD's and ROW take several years to approve pending additional environmental analysis (required under NEPA). Permitting backlogs have slowed supply to market in most of the active basins throughout the Rockies (Green River, Uintah, Powder, Piceance, San Juan, Williston etc). Permitting delays may differ in severity from basin to basin, but in the basins where supply could most quickly reach markets, delays are the worst.

To improve the permitting process: land managers must be given clear goals and objectives for energy

development on government land; land managers must be adequately prepared to meet the challenges of increasing demand; federal and state agencies must work more closely to share information and avoid delays; and land managers must be held accountable for the meeting energy development goals.

An internal study by the BLM in 1996 supports these same conclusions. The 1996 study identified factors which contribute to delays in processing APDs. These factors include: conflicting priorities, poor understanding of national APD priority, incomplete APD packages submitted by the operator, conflicting resource demands, excessive or unnecessary NEPA compliance, poor quality or inadequate BLM and FS planning documents, consultation with SHPO, FWS, and other SMAs, unclear directives or guidance, and insufficient agency resources (BLM, 1996).

Exhibit #1 demonstrates the time associated with operating on private land and federal land. The table shows the timeframe to get a well permitted and drilled. The difference between developing energy on private land and federal lands is 3 months versus 1-5 years.

Importance of Clear Goals and Objectives

With regard to permitting, let me state that we recognize that land managers have a difficult job in many respects. Land managers must follow a sheer morass of regulations, executive orders, instruction memoranda, and other guidance associated with the permitting process. To create significant improvements, most would agree that we should try to clarify and simplify the permitting process. Even so, there are still notable opportunities to improve the permitting process within the existing guidelines.

A natural starting point for improving the permitting process would be to examine the goals and objectives of the agencies involved in permitting. A lack of clear goals and objectives marks an important shortfall in the previous administration's land management policy. There was no clear direction for land managers with respect to energy development on government land. Accordingly, each land manager assigned a relative value to the development of energy with no sense of how his or her actions contributed to or detracted from the nation's energy sustainability as a whole. Mixed messages and a lack of accountability led to a situation in which land managers focus entirely on process with no apparent regard for the outcome. If left unattended, this lack of direction will become even more disastrous.

Like any organization, land management agencies need clear long-term goals and objectives to guide them. Without clear goals and objectives, managers will typically focus on the process rather than the outcome. This gives rise to many unnecessary delays with arbitrary outcomes. In many field offices of the BLM and Forest Service, federal employees often work with no sense of purpose or urgency with regard to petroleum development on federal land. Postponing land use decisions through endless analysis may be effective as a risk-aversive tactic, but it creates an untenable situation for oil and gas companies operating on federal lands.

Exhibit #2 is a map showing government lands. The various colors represent the different agencies with surface management responsibility. A map showing the federal government's mineral interest in the western United States would encompass an even larger portion of the West than is depicted on this map. Timely permitting of oil and gas wells on BLM and Forest Service Lands is critical to the nation's energy sustainability since a significant portion of the Western United States is managed by these agencies and vast amounts of oil and gas resources underlie these lands.

In the Rocky Mountains, where abundant supplies of natural gas exist, permitting problems pose a significant impediment to the development of natural gas. Long-term sustainable gas production will be achievable only through the orderly development of frontier areas such as the Rockies. Without improvement in the permitting process, industry will not be able to keep pace with growing demand.

Adequate Preparation

Adequate preparation is vital if land managers are to meet the needs of current and future generations. Many land use plans are out of date, causing substantial delays in the permitting of new wells until new environmental analysis, usually an environmental impact study, can be completed. Years of inattention to this growing problem have resulted in a situation in which almost every land use plan needs to be updated before additional development can occur. Development delays due to planning are a major factor exacerbating current natural gas shortages.

It should be noted that the process whereby land managers rewrite or amend land use management plans has become extremely cumbersome and needlessly detailed, and has resulted in marked delays in making decisions. In many cases the average length of time to complete the analysis has gone from less than a year to more than 3 years. At the same time, the average length of usefulness for these land management plans has shrunk from 20 years to 7 years. In the Powder River Basin of Northeastern Wyoming, the land use plan has been updated two times in the last two years and is currently being updated for its third time. One of the most glaring example of how excessive planning has delayed development of natural gas can be seen the in the Jack Morrow Hills Resource Area.

Exhibit #3 is a map of the Jack Morrow Hills Resource Area in southwestern Wyoming. Industry was initially informed that a resource management plan would be required prior to allowing any new leasing to take place. BLM began preparation of the Green River Resource Management Plan (GRRMP) in late 1991. Not only did it take BLM nearly six years to issue a Record of Decision on the GRRMP, it withheld its leasing decision on 80,000 acres of land in an area known as Jack Morrow Hills until a Coordinated Activity Plan (CAP) for leasing could be completed, despite the fact that the area already had over 60 producing wells. Industry was assured that leasing would resume once the CAP was completed.

Despite BLM's further assurance that the Jack Morrow Hills CAP would be completed without delay, the agency didn't even begin scoping on the process until 1998, and at that time the area withheld from leasing was increased to nearly 600,000 acres! Moreover, BLM subsequently promised to complete the analysis by December 1999. This did not occur; the draft environmental impact statement (EIS) wasn't published for public comment until the end of 2000. When the draft EIS was issued, the preferred alternative was for "staged leasing," effectively postponing leasing decisions indefinitely. To further complicate matters, former Interior Secretary Bruce Babbitt directed BLM to reopen the analysis to develop and implement a "conservation" alternative that would prohibit any new leasing in the area.

The map of the Jack Morrow Hills area shows the BLM-managed mineral estate with active oil and gas leases in yellow. Of the 623,000 acres within the red boundary of the Jack Morrow Hills area, there are 239,000 acres of active federal leases, 36,000 acres that are productive. Also note that within the CAP area, there are 137,890 acres recommended as Wilderness Study Areas.

Land managers have a responsibility to ensure that oil and gas development is not suspended due to perceptions that impacts surpass acceptable levels. For this reason it is critical that agencies to routinely monitor activities. It is of particular importance that monitoring be done on an annual basis in areas of heightened activity. Annual monitoring of activities in these areas will give agencies the opportunity to acquire critical information useful for daily and long-term management flexibility. With advance knowledge of when thresholds are being approached, it will be possible for land managers and project proponents to develop acceptable measures to mitigate or reduce potential impacts to an acceptable level. Similarly, the effectiveness of mitigation measures can be tested.

In order for this concept to work, a system for tracking monitoring efforts and results must be developed. In addition, a quality control process needs to be implemented to ensure that resource management objectives are clearly stated and measurable. Measurable management thresholds which, when approached or reached,

require a review of existing management practices, must also be identified. An extremely important element of the monitoring effort is an inventory of resource data. Routine monitoring will have the added effect of reducing the time necessary to revise Resource Management Plans.

Another important aspect of agency preparation and readiness involves agency staffing. In some field offices of the BLM, there are adequate staff, but resources are not directed toward energy development, reflecting the manager's priorities. However, most within industry believe BLM field offices are inadequately staffed.

We are encouraged that the BLM is planning to increase its Fluid Minerals Program staff by 32 full time employees this year. But we question whether it is still far short of meeting existing and future needs. To put the staffing issue in perspective, it's worth noting that this program has shrunk from 1,800 employees in the mid 80's to 695 in 2001. If federal land managers are to partner with an industry that needs to double and triple its activity on federal lands, staffing must be increased. In addition, the BLM should review its recruiting, training and retention programs so that it can compete with industry to hire skilled workers. Enrollment in petroleum graduate programs is less than half of what it was in the early eighties, and graduates now command a first year salary of up to $60,000.

Land managers also need to keep pace with new technologies that will allow them to work more efficiently. New geospatial tools can reduce by half the time needed to perform studies. The use of new technologies requires planning, training, and rethinking the way the agency performs its duties. We are encouraged by initiatives in the Buffalo Field Office of the BLM to use GIS technology in the development of an Environmental Impact Statement for coal bed methane in the Powder River Basin.

We are hopeful that when the inventory of public lands required by the ENERGY POLICY AND CONSERVATION ACT (EPCA, S. 724, 106th Congress, relating to the Strategic Petroleum Reserve) is completed, the information gathered will become the cornerstone for a comprehensive database that land managers and other agencies will use in decisions relating to planning, leasing, permitting. Madam Chairman, we thank you for your farsightedness and leadership in the drafting and passage of EPCA. The inventory that is undertaken under EPCA should eventually become a tool for collaboration between federal and state agencies.

Inter and Intra-agency Coordination

Coordination between the various federal and state agencies with authority over oil and gas operations must be greatly improved. In the field of ecology, one talks about the cumulative impacts of a federal action on habitat or the sustainability of an ecosystem. The same approach must be taken when considering the nation's energy policy. The unintended consequences of multiple regulatory changes have crippled responsible oil and gas development in many areas. Producing natural gas on government land is at times threatened or endangered by excessive regulations that result in severe limitations on access to public lands for oil and gas exploration and development. It is often difficult to reconcile the missions of the various agencies when some are multiple-use oriented land management agencies (such as the BLM and USFS) and others are single-purpose agencies (EPA and US Fish and Wildlife Service) whose focus does not address the need for balance in managing federal lands.

Agencies, such as the Department of Energy and the United States Geological Survey, have valuable information about energy trends that would greatly serve land managers as they plan for future development activity. It seems a poor use of resources and knowledge to not require some coordination at the highest levels between sister agencies. Other agencies, such as the EPA, are notorious for holding up the permitting process at the eleventh hour for additional consultation. Equally troublesome are the individual specialists within the BLM and Forest Service offices (such as archeologists and wildlife biologists) who view oil and gas activities as peripheral to their core tasks. A recent effort called the Federal Leadership Forum could

eventually alleviate eleventh hour delays caused by disputes between agencies, but recent events show that interagency disputes remain a problem.

Accountability

A final aspect of the permitting process that deserves attention is the concept of accountability. Along with clear goals and objectives, adequate preparation, and coordination, land managers must be held accountable for the results or outcomes of their work. This component, more than any other, is lacking and should be addressed.

In an IPAMS report entitled *Exploring for Reinvention: Dimensions of Customer Satisfaction and Factors Limiting Reinvention Within the Bureau of Land Management's Oil and Gas Program* (May 16, 1999), IPAMS reported its finding on BLM performance and customer satisfaction, using the Agency's stated goals as a measure:

> Testing for perceived customer satisfaction relating to timeliness is important not only because it was identified as an important issue by industry, but also because the federal government has issued standards for timely performance. The *Customer Service Standards for Natural Resource Management* state, "Your applications will be processed in a timely manner."
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> According to a 1995 BLM survey of all resource users, "72 percent of respondents were satisfied that the Bureau of Land Management processed their applications in a timely manner" (*Customer Service Standards for Natural Resource Management)*. This finding varies significantly from the performance ratings given by the oil and gas industry (a subset of natural resource users). The industry's rating of BLM both for overall timeliness in processing documents and timeliness in processing applications revealed poor performance. Approximately 75 percent of industry respondents were not impressed with the BLM's overall performance in processing documents in a timely manner, and 58 percent were dissatisfied with BLM's performance in timely processing of applications.
>
> One of the key recommendations for producing results in the federal government's reinvention plan is to "streamline processes" (Blair House Papers, 1997). According to industry survey results, only six percent of respondents believe the BLM has taken advantage of opportunities to streamline its operations. Approximately half of industry believes the BLM has not pursued opportunities to streamline operations to reduce costs and time delays.
>
> The findings of the survey revealed that most of industry perceives the BLM as an agency troubled by inconsistency, contributing to a lower level of overall customer satisfaction. Only 17 percent of the industry respondents were satisfied with the extent to which BLM consistently implemented its policies and regulations. Consistency by government officials is not only a national reinvention standard, but also a procedural trait that appears to be highly valued by members of industry.

As seen in the result above, industry gave the BLM low grades in the areas of document processing, permitting, streamlining, and consistency. Despite industry efforts to make the findings of this report available to the past Secretary of Interior, little has been done to improve agency performance and, in most cases, the problems have increased due to expanded activity on federal land.

Another example of how the BLM is failing to meet agency goals for permitting timeframes, streamlining, and consistency can be seen in a planning effort that is taking place in northeastern Utah. In 1997 the BLM Vernal District Office decided to prepare a combined Environmental Assessment for all the operating companies (Resource Development Group, or RDG) who had pending APDs in the area. BLM assured the

company that once the NEPA analysis was completed, they would get their permits. Combining separate and distinct development projects into one EA is not a common practice within BLM field offices, but industry had little choice but to go along.

In early 1999, ENSR (an independent contractor approved by the Vernal District office that was hired by RDG) issued its Final Environmental Assessment and the BLM issued a Record of Decision (ROD). BLM then issued a Finding of No Significant Impact (FONSI) with several Conditions of Approval (COAs) that were protested by industry and Uinta County.

The State Director determined the proposal was "so controversial" that BLM would have to do a full-blown Environmental Impact Statement (EIS), even though the proposal complied with the existing Resource Management Plan for the area. The APDs had now been delayed for over 20 months, with costs for environmental documentation topping $250,000. Despite the fact that the State Director "fast-tracked" the EIS, it has now been 50 months and counting. The draft EIS is not expected to be issued before the end of this summer. This will be followed by another three month public comment period before the Final EIS can even be drafted.

Conclusion

We don't want to mislead this Committee into believing that if all our permitting woes were cured today that all of our problems as an industry would go away. There is no quick fix to the problems that have accrued as a result of mismanaging development on federal lands. We cannot flip a switch and suddenly turn on all of the supply needed to meet the nation's demand for the next decade. The oil and gas industry requires relatively long lead times to build rigs, pipelines and other infrastructure needed to expand supply. Ten years of low prices coupled with dwindling access to government land and permitting delays have led many producers to abandon the Rocky Mountain Region in search of more hospitable places to do business.

The uncertainty surrounding exploration and development on federal land has increased the risk of investment to unacceptable levels for many companies and their investors. And this, in and of itself, is amazing when you consider that many of these pioneering individuals are willing to take a 50 percent or higher risk of drilling a dry hole. In other words, the risk associated with unexpected and costly delays due to environmental studies, permitting delays, and processing of rights-of-way has become the greatest limiting factor in this industry's effort to supply energy to the nation. This trend can and must be reversed. Public lands hold enormous potential to fuel this nation with clean, reliable, and affordable energy. Accordingly, we should take every necessary action to improve the process that regulates the flow of energy from public lands to communities and businesses.

In closing, I would like to say that industry stands ready to partner with the BLM, Forest Service and Congress to help identify opportunities and strategies for improving the permitting process.

Madam Chairman and members of the committee, thank you for the opportunity to appear before you today.

Clear Listing	3-6 months	NA
Negotiate and Acquire Lease	NA	1-3 months
Lease Sale	6 months	NA
Lease Issuance	2 months	NA
NEPA (EIS or EA)	TBD	NA
- Environmental Impact Statement (EIS)	1-3 years	NA
- Environmental Assessment (EA)	6-18 months	NA
Notice of Staking	1 month	NA
Archaeology Weather Restrictions	11/15 thru 4/15	NA
On-Site Inspection with BLM Official	1 month	NA
Wildlife Restrictions	TBD	NA
- Big Game Winter Range	11/15 thru 3/15	NA
- Raptor	2/1 thru 7/31	NA
- Sage Grouse	3/1 thru 7/15	NA
- Prairie Dogs (Black Footed Ferrets)	3/1 thru 9/15	NA
- Mountain Plover	3/15 thru 8/15	NA
- Burrowing Owl	6/1 thru 9/15	NA
Sensitive Resource	TBD	NA
Rights-of Way	3-6 months	2 weeks
No Surface Occupancy	TBD	NA
Permit Issued	3-24 months	3-4 weeks
Total Time from Drilling Idea until 1st Well Drilled	**1-5 years**	**2-4 months**

Exhibit #2

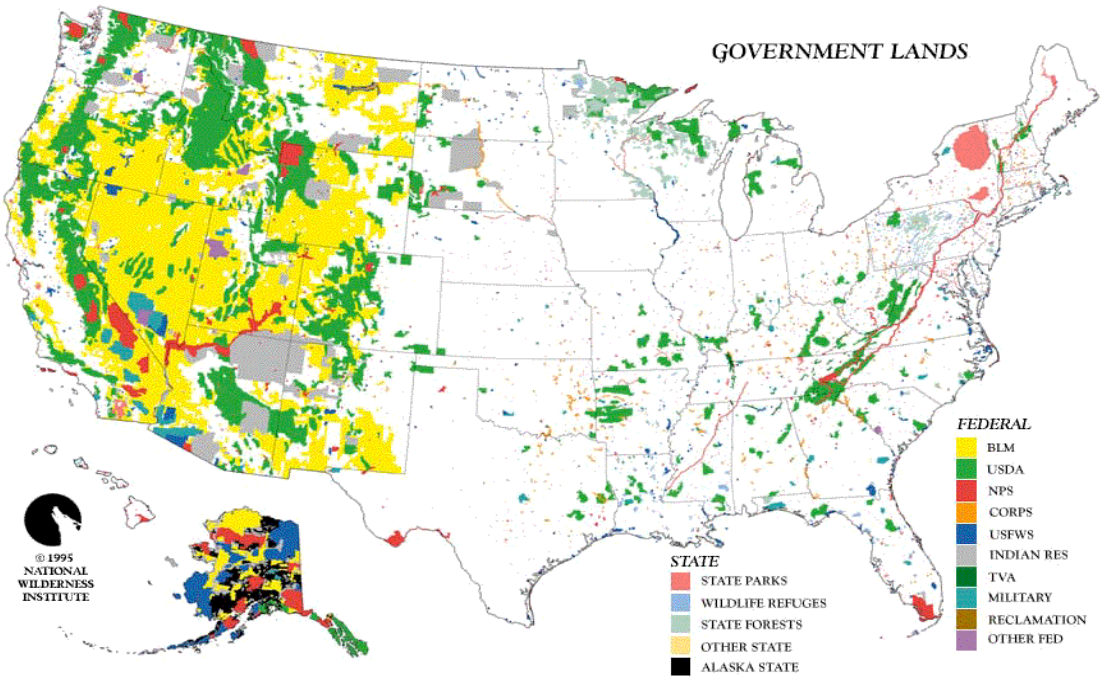

Exhibit #6

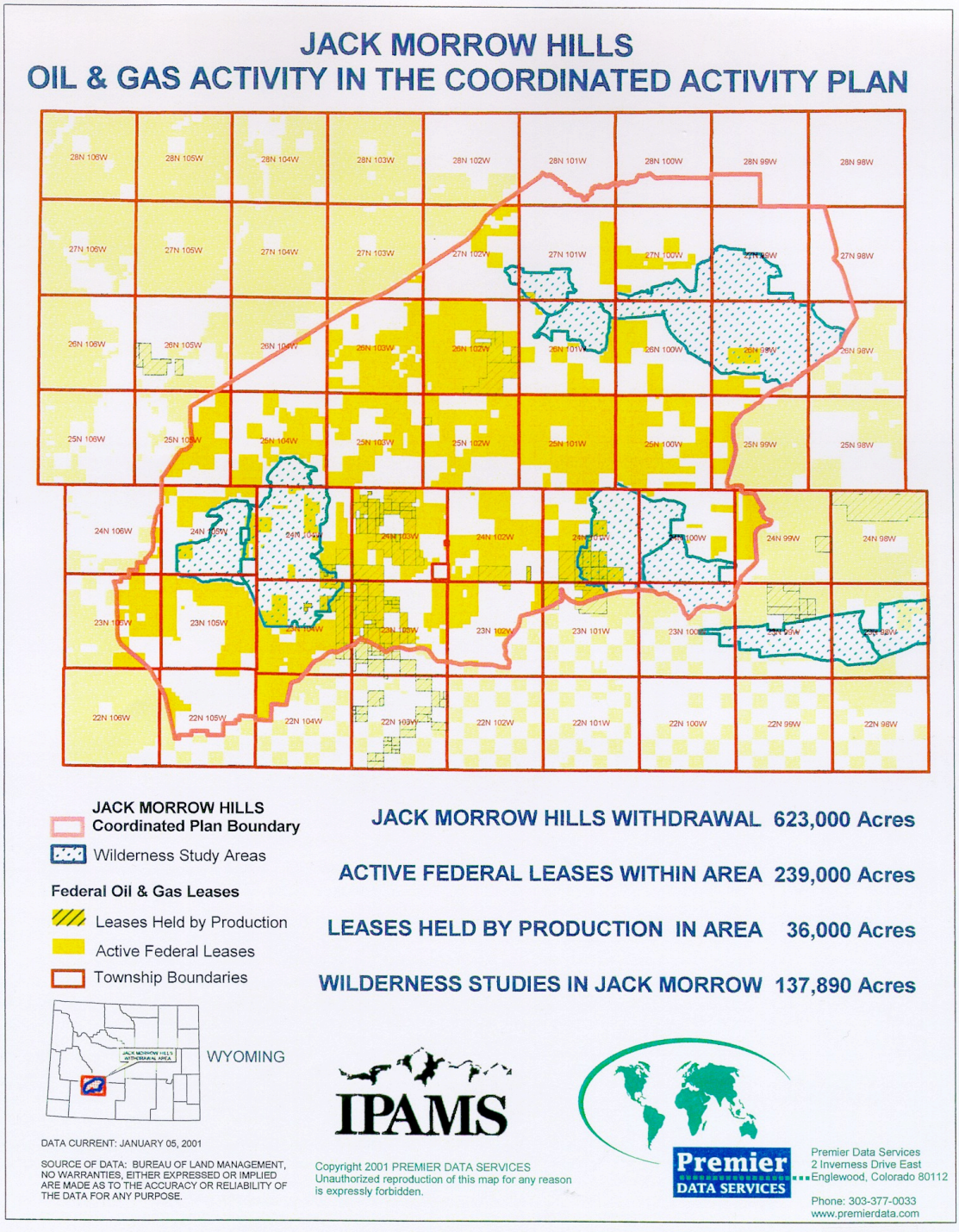

Exhibit #3

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